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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/674,406 | 10/01/2003 | Giovanni Garofalo | P08058US00/MP | 5121 |
| 881 | 7590 | 12/22/2005 | EXAMINER MAI, HUY KIM | |
| STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314 | | | ART UNIT 2873 | |

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,406

Applicant(s)

GAROFALO ET AL.

Examiner

Huy K. Mai

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) filed Oct. 1, 2003 is acknowledged.

Specification

2. The disclosure is objected to because of the following informalities: The phrase "a nasal portion 101 and 201 and a temporal portion 102 and 202, respectively" (page 4, lines 24-25) should read -- a nasal portion 101 and 102 and a temporal portion 201 and 202, respectively— (See Fig.1.)

Appropriate correction is required.

Claim Objections

3. Claim 6 is objected to because of the following informalities: It appears that claim 6 depends upon claim 2; otherwise, the phrase "said conical surface" (claim 6, line 2) has no antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tackles (5,774,201).

Tackles discloses in Figs. 1-3, column 3, line 29 through column 5, line 3, goggles comprising a pair of lenses that carried out as one piece, said one-piece lens being provided with a temporal

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portion and with a nasal portion, wherein the region (the nasal portion) near the apex 30 is slightly flattened in relation to a circle. said nasal portion near the apex 30 is bent on a substantially horizontal plane and follows a first theoretical cylindrical surface with substantially vertical generatrices. Tackles also discloses, in column 7, lines 17-22 that “It has been found that lenses substantially conforming to a mathematically correct ellipse result in better optical clarity than lenses having discontinuous portion (e.g. bent portion near the lateral ends...)”, and shows in Fig. 11 that such a mathematically correct ellipse is an elliptic cone. Thus Tackles indirectly discloses the lateral portion or the temporal portion is bent on a second theoretical surface having a combined bend both on a horizontal and on a vertical plane. Therefore, it would have been obvious at the time the invention to modify the Tackles’s lens in Fig.3 in light of teachings of the mathematically correct ellipse at the lateral ends as he found and of using an elliptic cone for such a better optical clarity as shown in Fig.11 to form a one-piece lens for goggles wherein the lens being provided with a temporal portion and with a nasal portion, wherein said nasal portion is bent on a substantially horizontal plane and follows a first theoretical cylindrical surface with substantially vertical generatrices, whereas said temporal portion is bent on a second theoretical surface having a combined bend both on a horizontal and on a vertical plane for providing a one-piece lens with a better optical clarity as disclosed by Tackles.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.



Huy Mai
Primary Examiner
Art Unit 2873

HKM/
December 19, 2005